THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION No.6523 of 2006

ORAL ORDER:

This Writ Petition is filed seeking a declaration that the proceedings dated 27.03.2006 issued by the Regional Transport Officer, Nellore – Respondent No.1 is arbitrary and illegal.

I have heard learned counsel for the petitioner as well as learned Government Pleader for Transport appearing for respondents.

A perusal of the material on record shows that the vehicle bearing Registration No.KA 08-3771 belonging to the petitioner was seized on the ground of certain alleged irregularities. By virtue of orders of the learned Special Judicial Magistrate of II Class, Kovur, dated 24.03.2006, the vehicle was directed to be released on payment of Rs.26,500/-. However, by order dated 27.03.2006, respondent No.1 directed the Motor Vehicles Inspector, Nellore, to release the vehicle along with original record under proper acknowledgment by permitting petitioner to shift excess load in another vehicle with sufficient Gross Vehicle Weight (GVW) and submit weighment bill at an early date. Petitioner is aggrieved by the said direction issued by respondent No.1, contending *inter* alia, that unloading of consignment can be done only at the factory where it was loaded or at the consignee's place. It is further contended that loading and unloading of the consignment cannot be done in between, because facilities for such loading or unloading are not available at the place where the vehicle was detained. It is also contended that the entire load is one unit and it is not possible to divide it into two. Hence, this Writ Petition seeking a declaration that the proceedings dated 27.03.2006 is arbitrary and illegal and to permit petitioner to unload the consignment at the factory where it was loaded.

Having regard to the nature of controversy involved, I am of the opinion that no such direction can be granted by this Court in exercise

of jurisdiction under Article 226 of the Constitution of India. However, keeping in view the submissions made by the petitioner that it is not possible to unload the consignment at the place of detention, I deem it appropriate to grant liberty to petitioner to make appropriate representation before respondent No.1 explaining the difficulties in unloading the consignment and shifting into another vehicle. If such representation is made, the same shall be considered and appropriate orders be passed by respondent No.1, in accordance with law, as expeditiously as possible, preferably within a period of one week from the date of receipt of the representation from the petitioner.

(G.ROHINI,J.)

6th April, 2006.
Kgr
Operative portion by wire at party's costs.

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION No.6523 of 2006

Dated: 06-04-2006

Between:

M/s Odicee Carriers Pvt. Ltd. a Company registred under the Companies Act, represented by its Manager – R. Balasubramanian, having its Registered Office at 140 (Old No.261), Thumbu Chetty Street, Chennai – 600 001. ..... Petitioner

AND

The Regional Transport Officer,

Nellore and another. . ....Respondents.